IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 5505 of 1997

Between:

K.Durga Prasad S/o.Agayya
Labour Law Consultants House of Labour
King Koti Road Hyderabad

..... PETITIONER

AND

1 Presiding Officer Addl.Industrial Tribunal-cum-Addl.Labour Court,
Chandra Vihar Mojamajahi
Market road Nampally, Hyderabad
2 The Management of M/s. Golden Cave Bar & Restraunt
7-1-621/C, East Srinivasa Colony
Ameerpet Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Certiorari after calling after calling for the records in I.D.No.41/95 on the file of the Add. Industrial Tribunal-cum-Labour Court set aside the award in I.D.No.41/95 dt:7.12.1996 and consequently direct the respondent-management to reinstate the petitioner into service with full back wages, continuity of service and all other attendant benefits.

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondent No.1: GP FOR LABOUR (not present)

The Court made the following :

ORDER:

This writ petition is filed by the petitioner-workman aggrieved by the award, dated 07-12-1996, passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in I.D.No.41 of 1995.

According to the petitioner, he joined the service of the 2nd respondent, as a Waiter, in the year 1989, and continued in service till 08-02-1995, on which date his services were orally terminated by the respondent-management. As no notice was served and no enquiry was conducted before terminating his services, he raised an industrial dispute before the Labour Court, under Section 2-A of the Industrial Disputes Act (for short "the Act"), seeking an order of reinstatement, by setting aside the order of termination.

Before the Labour Court, the Management has come up with counter, and also documents, showing that the petitioner-workman has submitted his letter of resignation and that he sought for the settlement of the service benefits. Accordingly, the management settled the accounts of the petitioner and paid the balance amount of Rs.5,040-50 ps., as full and final settlement of his account, and to that effect, a receipt was also issued in favour of the management by the petitioner, under Ex.M.4. Therefore, according to the management the petitioner has voluntarily left the services of the 2nd respondent, after getting the service benefits settled. Therefore, the question of termination of the services of the petitioner by the 2nd respondent, which is sought to be set aside before the Tribunal, does not arise.

The Labour Court after considering the material on record, came to a conclusion that the services of the petitioner were not terminated by the 2nd respondent, and that the petitioner himself had voluntarily left the service of the 2nd respondent, and that the industrial dispute itself is not maintainable under Section 2-A of the Act. On that basis, the said I.D., was dismissed. Aggrieved thereby, the

workman has come up with the present writ petition.

Learned counsel for the petitioner, has reiterated the stand taken by the workman before the Labour Court and contends that the petitioner's services were terminated by the 2nd respondent without passing any order of termination and without issuing any notice or conducting enquiry, and therefore, the order of termination requires to be set aside by reinstating the petitioner into service, with all consequential benefits.

None appeared for the respondents. Heard the learned counsel for the petitioner and considered the material on record.

A perusal of the award of the Labour Court clearly discloses that, what was stated by the petitioner is not the correct statement of facts. The documents filed before the Labour Court clearly show that the petitioner-workman has submitted his letter of resignation to the 2nd respondent and also sought for settlement of his service benefits, and that, the management has also paid an amount of Rs.5,040-50 ps. in full and final settlement of his account. Therefore, there is no order of termination, terminating the service of the petitioner, which can be disputed, under Section 2-A of the Act.

In view of the above facts, there is no illegality or irregularity in the order passed by the Labour Court, warranting interference by this Court under Article 226 of the Constitution of India.

The writ petition is accordingly dismissed. No order as to costs.

01-10-2004

GJ

To

1 Presiding Officer Addl.Industrial Tribunal-cum-Addl.Labour Court,
Chandra Vihar Mojamajahi
Market road Nampally, Hyderabad
2 The Management of M/s. Golden Cave Bar & Restraunt
7-1-621/C, East Srinivasa Colony
Ameerpet Hyderabad

3 Two C.Cs. to the Government Pleader for Labour, High Court of A.P., Hyderabad.

4. Two C.D. copies.